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HOUSE BILL 480

**44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999**

INTRODUCED BY

R. David Pederson

FOR THE COURTS, CORRECTIONS AND CRIMINAL JUSTICE COMMITTEE

AN ACT

RELATING TO CHILDREN; PROVIDING COUNTIES AND MUNICIPALITIES WITH  
AUTHORITY TO ADOPT CURFEW ORDINANCES; PROVIDING SANCTIONS;  
ENACTING A NEW SECTION OF THE CHILDREN'S CODE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Children's Code is enacted to read:

"~~[NEW MATERIAL]~~ LOCAL GOVERNMENTS--AUTHORITY TO ADOPT  
CURFEW ORDINANCES--TIME LIMITATIONS FOR CURFEWS--EXCEPTIONS TO  
CURFEWS--PROCEDURES--SANCTIONS.--

A. The governing body of a county or municipality may adopt a curfew ordinance to regulate the actions of children during night-time hours. If adopted, an ordinance shall set reasonable, age-appropriate time limitations.

B. The governing body of a county or municipality may adopt a curfew ordinance to regulate the actions of children during day-time hours on school days. If adopted, the curfew may require children subject to the provisions of the Compulsory School Attendance Law to be present on school premises.

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C. A curfew ordinance adopted by the local governing body of a county or municipality shall provide lawful exceptions to the ordinance, including the following exceptions:

- (1) when a child is accompanied by a parent or legal guardian;
- (2) when a child is accompanied by an adult who is authorized by the child's parent or legal guardian to have custody of the child;
- (3) when a child is traveling interstate;
- (4) when a child is returning home from a school-sponsored function, a civic organization-sponsored function or a religious function;
- (5) when a child is going home from work;
- (6) when a child is involved in a bona fide emergency;
- (7) when a child is on a public street or sidewalk in front of his own home or the home of a consenting neighbor; and
- (8) when a child is exercising his right to freedom of speech pursuant to the provisions of Article 2, Section 17 of the constitution of New Mexico or his rights pursuant to the provisions of the first amendment to the constitution of the United States.

D. A curfew ordinance adopted by the local governing body of a county or municipality shall comply with the following procedures. If a child is detained by a law enforcement officer or any other employee designated by a county or municipality to enforce a curfew ordinance, the law enforcement officer or employee shall attempt to contact the child's parent or legal guardian. Upon contacting the child's parent or legal guardian, the law enforcement officer or employee may deliver the child to the parent's or legal guardian's residence or request that the child's parent or legal guardian come and take custody of the child. If the law enforcement officer or employee is unable to contact the child's parent or legal guardian within a two-hour time period, the child may be transported to a protective custody facility that is separate from a juvenile detention facility, an adult detention facility or an adult

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1 jail. A child detained in a protective custody facility shall be taken the following day to the  
2 residence of the child's parent or legal guardian or to the child's school.

3 E. Subject to the provisions of Subsection F of this section, the municipal  
4 court, magistrate court or metropolitan court shall have original exclusive jurisdiction over  
5 curfew violations. If a child willfully and intentionally violates a curfew ordinance, the  
6 municipal court, magistrate court or metropolitan court shall order:

7 (1) the child to perform forty hours of community service for each  
8 violation of the ordinance; and

9 (2) the parent or legal guardian of the child to pay a civil fine in an  
10 amount not to exceed three hundred dollars (\$300), plus the actual costs incurred by the county  
11 or municipality by providing shelter for the child in a protective custody facility.

12 F. If a child is adjudicated three times within a six-month period for violating a  
13 curfew ordinance, the municipal court, magistrate court or metropolitan court shall report the  
14 matter to the department. The department shall conduct an investigation to determine the  
15 necessity of filing a petition with the children's court alleging neglect or abuse or that the child's  
16 family needs family services."

17 Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July  
18 1, 1999.

1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

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6 March 1, 1999

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9 Mr. Speaker:

10 Your **JUDICIARY COMMITTEE**, to whom has been referred

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12 **HOUSE BILL 480**

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14 has had it under consideration and reports same with recommendation that it **DO NOT**  
15 **PASS**, but that

16  
17 **HOUSE JUDICIARY COMMITTEE SUBSTITUTE**  
18 **FOR HOUSE BILL 480**

19  
20 **DO PASS**, and thence referred to the **APPROPRIATIONS AND FINANCE**  
21 **COMMITTEE.**

1 FORTY-FOURTH LEGISLATURE  
2 FIRST SESSION, 1999

3 HJC/HB 920

Page 5

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5 Respectfully submitted,

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10 **R. David Pederson, Chairman**

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12 Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

13 (Chief Clerk)

(Chief Clerk)

14  
15 Date \_\_\_\_\_

16  
17 The roll call vote was 9 For 0 Against

18 Yes: 9

19 Excused: Luna, Mallory, Sanchez

20 Absent: None

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22 F:\99BillsWP\h0480

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HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 480

**44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999**

AN ACT

RELATING TO CHILDREN; PROVIDING COUNTIES AND MUNICIPALITIES WITH  
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B. The governing body of a county or municipality may adopt a curfew ordinance to regulate the actions of children during day-time hours on school days. If adopted, the curfew may require children subject to the provisions of the Compulsory School Attendance Law to be present on school premises.

C. A curfew ordinance adopted by the local governing body of a county or municipality shall provide lawful exceptions to the ordinance, including the following

exceptions:

- (1) when a child is accompanied by a parent or legal guardian;
- (2) when a child is accompanied by an adult who is authorized by the child's parent or legal guardian to have custody of the child;
- (3) when a child is traveling interstate;
- (4) when a child is going to or returning home from a school-sponsored function, a civic organization-sponsored function or a religious function;
- (5) when a child is going to work or returning home from work;
- (6) when a child is involved in a bona fide emergency;
- (7) when a child is on a public street or sidewalk in front of his own home or the home of a consenting adult neighbor; and
- (8) when a child is exercising his right to freedom of speech pursuant to the provisions of Article 2, Section 17 of the constitution of New Mexico or his rights pursuant to the provisions of the first amendment to the constitution of the United States.

D. A curfew ordinance adopted by the local governing body of a county or municipality shall comply with the following procedures. If a child is detained by a law enforcement officer or any other employee designated by a county or municipality to enforce a curfew ordinance, the law enforcement officer or employee shall promptly attempt to contact the child's parent or legal guardian. Upon contacting the child's parent or legal guardian, the law enforcement officer or employee shall deliver the child to the parent's or legal guardian's residence or request that the child's parent or legal guardian come and take custody of the child, unless returning the child to the custody of the child's parent or legal guardian would endanger the health or safety of the child. If the law enforcement officer or employee is unable to contact the child's parent or legal guardian within a two-hour time period, the child shall be transported to a protective custody facility that is separate from a juvenile detention facility, an adult detention facility or an adult jail. A child detained in a protective custody facility shall be taken the following day to the residence of the child's parent or legal guardian or to the child's school if school is in session.

E. Subject to the provisions of Subsection F of this section, the municipal court, magistrate court or metropolitan court shall have original exclusive jurisdiction over curfew violations. If a child willfully and intentionally violates a curfew ordinance, the municipal court, magistrate court or metropolitan court may order:

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1 (1) the child to perform forty hours of community service for each  
2 violation of the ordinance; and

3 (2) the parent or legal guardian of the child to pay a civil fine in an  
4 amount not to exceed three hundred dollars (\$300), plus the actual costs incurred by the county  
5 or municipality by providing shelter for the child in a protective custody facility.

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8 matter to the department. The department shall conduct an investigation to determine the  
9 necessity of filing a petition with the children's court alleging neglect or abuse or that the child's  
10 family needs family services."

11 Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July  
12 1, 1999.

1 FORTY-FOURTH LEGISLATURE  
2 FIRST SESSION, 1999  
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4

5 March 5, 1999  
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7 Mr. Speaker:  
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9 Your **APPROPRIATIONS AND FINANCE COMMITTEE**, to  
10 whom has been referred  
11

12 **HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR**  
13 **HOUSE BILL 480**  
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15 has had it under consideration and reports same with recommendation that it **DO PASS**.  
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17 Respectfully submitted,  
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21 **Max Coll, Chairman**  
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FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

HJC/HB 480

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 14 For 0 Against

Yes: 14

Excused: Abeyta, Coll, Picraux

Absent: None

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